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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,067	10/10/2001	William D. Swart	SEDN/12164	5257

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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/973,067

Applicant(s)

SWART ET AL.

Examiner

Dominic D. Saltarelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 18 is objected to because of the following informalities: On line 1, "ready" should be changed to --reading--. Appropriate correction is required.

Response to Arguments

2. Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive. Applicant argues that Hendricks does not teach the claimed limitations of providing at least two different formats for content storage (applicant's remarks, page 7). However, as shown in the instant office action, Hendricks does in fact teach at least two different formats for content storage, MPEG and ATM (see Hendricks, col. 11 line 61 – col. 12 line 3).
3. Further applicant's challenged the examiner's use of official notice regarding polling electronic devices to receive status information and the use of forward error correction (see claims 8, 17, and 21). In response, the examiner submits US Pat. No. 4,797,918 to Lee et al. which teaches the use of forward error correction to enhance the reliability of transmissions (see col. 3, lines 29-48) and US Pat. No. 4,450,481 to Dickinson which teaches the use of polling to identify network components (see col. 10, lines 47-67).

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 9-16, 18-20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendricks et al. (5,600,573, listed on the IDS submitted July 23, 2002) [Hendricks].

Regarding claims 1 and 10, Hendricks discloses an apparatus that decodes, formats, and codes content for storage and delivery (fig. 2, operations center 202, col. 21, lines 10-37), comprising:

means for providing two different formats for content storage (the apparatus supports both MPEG and ATM formats, col. 11 line 61 – col. 12 line 3);

means for receiving a coding and formatting request (system controller 312 sends a coding and formatting request for content to either receiver 300, col. 11, lines 46-60 and col. 22 line 50 – col. 23 line 14, or equally output equipment 320, col. 14 line 59 – col. 15 line 46 and col. 24, lines 43-64, depending on the configuration of the operations center, col. 24, lines 52-64);

means for analyzing parameters contained in the coding and formatting request (performed by the receiver controller 404 when the receiver is coding and formatting content for storage, col. 12, lines 59-65, and by the output

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command and control module 500 when the output equipment is coding and formatting content for transmission, col. 14, lines 20-38);

means for decoding, formatting in the two different format for content storage and coding target content (receiver 300 or equally, output equipment 320);

means for configuring the means for decoding formatting, and coding target content (receiver controller 404 or equally, output command and control module 500); and

means for routing coded target output content to one or more target addresses (holder 304 when storing the content over a plurality of addresses within storage device 308, col. 11, lines 1-18 and col. 11 line 61 – col. 12 line 18 or output equipment 320 when sending the content to remote sites, col. 10, lines 24-38).

Regarding claims 2 and 11, Hendricks discloses the method and apparatus of claims 1 and 10, further comprising means for processing auxiliary services comprising:

means for analyzing auxiliary service requests in the coding and formatting request (the same means identified above which analyze the coding and formatting requests will analyze the auxiliary service requests found in the coding and formatting request, said auxiliary services relating to advertisement

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insertions determined by the CAP, col. 10, lines 39-67, col. 13, lines 42-65, and col. 17, lines 49-67);

means for configuring auxiliary services processing means to supply the requested auxiliary services (the same configuring means identified above); and

means for outputting the requested auxiliary services, whereby the outputted auxiliary services are combined with the coded target output content (the same routing means identified above).

Regarding claims 3 and 12, Hendricks discloses the method and apparatus of claims 2 and 11, further comprising means for parsing auxiliary services and auxiliary service time code data (the apparatus determines both the advertisements to be inserted, the length of the advertisements, and when they should be inserted, col. 17, lines 49-67).

Regarding claims 4 and 13, Hendricks discloses the method and apparatus of claims 3 and 12, further comprising means for synchronizing the auxiliary service time code data and content time code data (the apparatus creates a schedule of programming that interleaves content and advertisements, col. 17, lines 49-67 and col. 19, lines 9-36).

Regarding claims 5 and 16, Hendricks discloses the method and apparatus of claims 2 and 11, wherein the auxiliary services comprises advertising (col. 17, lines 49-67).

Regarding claims 6 and 14, Hendricks discloses the method and apparatus of claims 2 and 11, whereby auxiliary services are combined with requested source content (col. 7, lines 5-25 and col. 9, lines 50-67), further comprising:

means for separating the auxiliary services from the requested source content (the apparatus parses and separates content into individual programs and advertisements for storage, col. 9, lines 65-67, "The storage device 308 stores some or all of the received programs and advertisements 212.", see also col. 11, lines 1-17 and col. 11 line 47 – col. 12 line 17);

means for processing the separated auxiliary service (advertisements are processed separately, col. 17, lines 49-67); and

means for combining selected separated auxiliary services with the coded target output content (col. 10, lines 52-55 and col. 17, lines 49-67).

Regarding claims 7 and 15, Hendricks discloses the method and apparatus of claims 2 and 11, wherein the requested auxiliary services are separate from the requested content (advertisements are individually selectable

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and stored independently of other content in the storage device 308, col. 17, lines 49-67), further comprising:

means for formatting and coding the requested auxiliary services (col. 12 line 59 – col. 13 line 6); and

means for combining the requested formatted and coded auxiliary services and the coded target output content (col. 14, lines 15-38).

Regarding claims 9, 18, and, 19, Hendricks discloses the method and apparatus of claims 1 and 10, further comprising means for reading target content routing address information and means for routing target content based on the address information (in addition to sending certain programming packages to certain cable headends, col. 10, lines 24-38 and col. 19, lines 9-35, the apparatus also routes specifically requested video on demand programs to subscriber sites, col. 19, lines 36-54).

Regarding claim 20, Hendricks discloses the apparatus of claim 10, wherein the parameter contained in the coding and formatting request comprises format description (see col. 11, lines 46-60, col. 12, lines 59-65, col. 13, lines 34-41, or col. 14, lines 20-38).

Regarding claim 22, Hendricks discloses the apparatus of claim 10, wherein the target addresses include an aggregator local storage (col. 12, lines

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4-17) or a user terminal (for filling a video on demand request, col. 19, lines 36-54).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks.

Regarding claims 8 and 17, Hendricks discloses the method and apparatus of claims 1 and 10, wherein upon receiving a formatting and coding request, formatting and coding means are identified (output means comprises a large number of duplicated components, col. 15, lines 31-46, wherein output equipment control means must send configuration information to the output equipment for accomplishing multiple tasks concurrently, col. 13, lines 18-33), but fails to disclose said identification is performed by a polling means.

It is notoriously well known in the art to poll electronic device to receive status information.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus disclosed by Hendricks to identify formatting and coding means via polling means.

Regarding claim 21, Hendricks discloses the apparatus of claim 10, but fails to disclose applying forward error correction coding to target output content.

However, Hendricks does disclose a quality control module which performs quality control functions on output content (col. 14, lines 39-58). Forward error correction is notoriously well known in the art to maintain the quality of outgoing digital data.

It would have been obvious at the time to a person of ordinary skill in the art to modify the apparatus disclosed by Hendricks to applying forward error correction coding to target output content, for the benefit of maintaining the quality of outgoing digital content.

Conclusion

8. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600